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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,637	01/13/2004	Daniel Kwoh	50843/WWM/E327	4667
23363	7590	12/08/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			NELSON, FREDA ANN	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	

3629

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/757,637	Applicant(s) KWOH, DANIEL	
	Examiner Freda Nelson	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

This is in response to a letter for a patent filed on January 13, 2004 in which claims 1-23 were presented for examination. Claims 1-23 are pending.

Specification

The disclosure is objected to because of the following informalities:

1. Page 2, line 23, "deals" should be "deal";
2. Page 3, line 22, "foe" should be "for";
3. Page 4, line 9, "FIG" should be "FIGS";
4. Page 4, line 11, "FIG" should be "FIGS";
5. Page 4, line 14, "FIG" should be "FIGS";
6. Page 4, line 23, "exemplary" should be "exemplary";
7. Page 5, line 34, "rater" should be "rated"; and
8. Page 5, line 34, there are two occurrences of "Carnival Cruises" .

Appropriate correction is required.

Claim Objections

9. Claim 16 is objected to because of the following informalities:
10. Line 10, "charged " should be placed after "with".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-6 recite the limitation "the pricing data" in line 7. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 4 recites the limitation "the price index" in line 2. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 19 recites the limitation "the expected price" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC §101

14. Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

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For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-23 only recite an abstract idea. The recited steps of merely identifying one or more price affecting factors; calculating a one or more correlation coefficient for each of the one or more price affecting factors; and calculating a cruise rating based on the pricing data, the one or more price affecting factors, and the one or more correlation coefficients does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to select an insurance policy over another.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-23 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 1-2, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaehn et al. (US PG Pub 2003/0125994) in view of Tawaga (Patent Number 5, 732,398).
16. In claim 1, Jaehn et al disclose an interactive interface for displaying data regarding a number of different travel related products wherein "products" may encompass services as well as tangible goods (paragraph 0002). Jaehn et al. further disclose that in FIG. 6, the selection parameter represented by the horizontal axis is the hotel rating. Travel services often rate hotels according to a 1-5 star (*-*****) scale, with one star (*) hotels receiving the least desirable hotels and five star hotels (*****) receiving the most desirable (paragraph 0035). Jaehn et al. still further disclose that some of the influencing factors for selecting an airline flight are the cost, the flight times, the origin and the destination of the flight, the airline, and the number of stops en-route while hotels may be selected based on their location relative to a particular point of interest, the hotel rating (*, **, ***, etc.), the type of room desired (suite, beach front, smoking, etc.), and the room rate (paragraph 0007). Jaehn et al. still further disclose that a method is

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provided for displaying pricing data for a number of travel related products wherein the pricing data correspond to prices for the travel related products with which each matrix is associated, and for products which meet product criteria established by the first and second parameter values of each row and column in which each cell is located (paragraph 0011). Jaehn et al does not disclose calculating a cruise rating based on the pricing data, the one or more price affecting factors, and the one or more correlation coefficients. Tagawa discloses that the system is particularly advantageous for a self service method of selling travel related services or products such as local tour attractions, local bookings, car rental bookings, local or intrastate tour packages, airline tickets, out-of-state tour packages, cruises, optional tours or cruises, and other shopping options (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to that modify the displaying method of Jaehn et al. to include the cruise feature of Tawaga in order to accommodate and facilitate travel being made by all modes of transportation.

17. In claim 2, Tawaga discloses that an interactive electronic travel service asks the user to select a cruise destination, a travel season, and length of cruise desired, qualifying the user for input data on cruise travel knowledge, price range, lifestyle and age information and recommending at least one particular cruise in response to input data (col. 5 lines, 48-57).

18. In claims 7-9, Tagawa discloses that the system is particularly advantageous for a self service method of selling travel related services or products such as local tour attractions, local bookings, car rental bookings, local

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or intrastate tour packages, airline tickets, out-of-state tour packages, cruises, optional tours or cruises, and other shopping options (abstract). Tagawa discloses that for the price range, the standard measure of cost per day or per diem is used, such as budget (under \$200), mid-range (\$200-400), deluxe (\$400-600), or luxury (over \$600) (col. 17, lines 59-61).

19. Claim 3 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaehn et al. in view of Tagawa (US Patent Number 5,732,398) in further view of Laufer (US PG Pub 2004/0006507).

20. In claim 3, Jaehn et al. does not disclose that the predetermined time for rating a cruise based on pricing data for the cruise is at least one year. Laufer discloses that the hotel/timeshare facility may be land-based or may be sea or air-based as well (paragraph 0049). Laufer et al. further disclose that "Hotel" as defined herein thus may include a cruise-ship or airline selling cabins or seats for specific cruises or flights (paragraph 0016). Laufer discloses that the peak period timeshares may include the right to use during intervals and may be valid for at least three years (paragraph 0016). It would have been obvious to one of ordinary skill in the art at the time the invention was made modify the method of Jaehn et al. to include the predetermined time period time of at least one year disclosed in Laufer because the proceeds from early sales may be used to finance the facility (US PG Pub 2004/0006507; paragraph 0038).

21. In claims 16-21, Jaehn et al. disclose that a method is provided for displaying pricing data for a number of travel related products wherein the pricing data correspond to prices for the travel related products with which each matrix is

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associated, and for products which meet product criteria established by the first and second parameter values of each row and column in which each cell is located (paragraph 0011). Jaehn et al. does not disclose comparing the cruise being charged with the expected price. Laufer et al. disclose that the anticipated occupancy rates are determined using historical occupancy rate information for the area or for a competitive set of facilities in the area (paragraph 0011). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the interactive system Jaehn to include historical data feature used in Laufer to provide the customer with a way to check prices to make sure that the customer is not being overcharged.

22. Claims 4-6, 10-14 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaehn et al. in view of Tagawa (US Patent Number 5,732,398) in further view of Laufer in still further view of Sprenger et al (US PG Pub 2003/0040946).

23. In claims 4-5, Jaehn et al. disclose that a method is provided for displaying pricing data for a number of travel related products wherein the pricing data correspond to prices for the travel related products with which each matrix is associated, and for products which meet product criteria established by the first and second parameter values of each row and column in which each cell is located (paragraph 0011). Jaehn et al. further disclose that the individual display matrices enable customers to efficiently compare product offerings from various suppliers in each of the various product lines in which the customer is interested (paragraph 0021). Jaehn et al. does not disclose identifying one or more

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additional correlation between the pricing data and at least one price affecting factor; and calculating a new price if the comparison does not exceed a predetermined value. Sprenger et al. disclose that some activities have elements of other components, for example a cruise includes both travel and lodging (paragraph 0003). Sprenger et al. disclose that if the user has chosen a price or price range (i.e. a budget) before reaching the vacation preferences page (or while providing information to such page), the services shown may be determined as services available based on price. Sprenger et al. further disclose that services that are returned by VPS 26 throughout the development of the travel plan that, when selected, exceed the budget, cause VPS 26 to prompt the user to reconsider (for example, to choose another price range or select another service) (Paragraph 0107). It would have been obvious to one of ordinary skill in the art at the time the invention was made to the modify the interactive interface of Jaehn et al. to include the price threshold feature of Sprenger et al. to provide the user with a range of options appropriate for the user while giving the user the option to change parameters.

24. In claim 6, Jaehn et al. does not disclose determining the average price index for one or more cruise ships. Sprenger et al. disclose that if user 10 is "middle of the road", the average price (of all the services available) is determined, and options for services are shown in order of increasing variance from the average. Sprenger et al. disclose that once user 10 chooses a value for each of the lodging parameters, user 10 will be able to see the services available meeting the values of the parameters by pressing the "Search" button on the

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"Lodging Preferences" page. For each available service for lodging, in addition to its name, its specifications (such as type, location and average price per night), and total price for the duration of the stay, are displayed on the "Lodging Selection" screen (as seen in FIG. 6) (Paragraph 0266). It would have been obvious to modify the Jaehn et al. system to include the average price index feature of Sprenger et al. in order to provide the customer with different ways of comparing prices.

25. In claim 10 -14, Jaehn et al does not disclose calculating a daily price for each one or more cruise ships; comparing the daily price; and if the comparison exceeds a predetermined value, calculating a price index of each of the one or more cruises. Sprenger et al. disclose that some activities have elements of other components, for example a cruise includes both travel and lodging (paragraph 0003). Sprenger et al. disclose that if the user has chosen a price or price range (i.e. a budget) before reaching the vacation preferences page (or while providing information to such page), the services shown may be determined as services available based on price. Sprenger et al. further disclose that services that are returned by VPS 26 throughout the development of the travel plan that, when selected, exceed the budget, cause VPS 26 to prompt the user to reconsider (for example, to choose another price range or select another service) (Paragraph 0107). It would have been obvious to one of ordinary skill in the art at the time the invention was made to the modify the interactive interface of Jaehn et al. to include the price threshold feature of Sprenger et al. to provide the user with a

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range of options appropriate for the user while giving the user the option to change parameters.

26. In claims 22-23, Sprenger et al. disclose that some activities have elements of other components, for example a cruise includes both travel and lodging (paragraph 0003). Sprenger et al. disclose that if the user has chosen a price or price range (i.e. a budget) before reaching the vacation preferences page (or while providing information to such page), the services shown may be determined as services available based on price. Sprenger et al. further disclose that services that are returned by VPS 26 throughout the development of the travel plan that, when selected, exceed the budget, cause VPS 26 to prompt the user to reconsider (for example, to choose another price range or select another service) (Paragraph 0107).

27. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaehn et al. in view of Tagawa (US Patent Number 5,732,398) in further view of Laufer in further view of Sprenger et al (US PG Pub 2003/0040946) in still further view of Walker et al.

28. In claim 15, Jaehn et al. does not disclose that the predetermined value is a percentage. Walker et al. disclose that if a given CPO includes a customer-defined price of \$140.00, but all other airline-defined restrictions of CPO rule number 45687 are met, a counteroffer should be generated containing a price of \$150.00 since the price variation is within ten percent (10%) of the minimum price associated with CPO rule number 45687, as authorized by counteroffer rule number 45687 col. 17, lines 55-59). It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to modify the system of Jaehn et al. to include the percentage feature of Walker et al. in order to provide flexibility in the pricing of cruises.

Conclusion

29. The examiner has cited prior art of interest, for example:

1) Matos et al. (US PG Pub 2003/0036930), which disclose a method and system for creating travel packages.

2) Schiff et al. (US PG Pub 2002/0022978), which disclose a systems and methods of displaying cruise line pricing data.

3) Schiff et al. (US PG Pub 2003/0004760), which disclose a systems and methods of on-line booking of cruises.

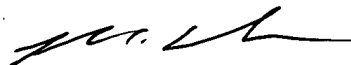
30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda Nelson whose telephone number is (703) 305-0261. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Freda Nelson
Examiner
Art Unit 3629



JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600